

REMARKS

Claims 1-46 are pending in the present application. Claims 1, 7, 13, 18, 23, 29, 35, and 41 are amended. Reconsideration of the claims is respectfully requested.

I. Telephone Interview with Examiner Mattis on September 22, 2005

Applicants thank Examiner Jason Mattis for the courtesy extended to applicants' representative during the September 22, 2005 telephone interview. During the interview, the examiner and applicants' representative discussed proposed independent claim amendments. The examiner stated that the proposed claim amendments would not be entered if they were contained within a Response to Final Office Action because the proposed independent claim amendments would introduce new matter requiring a new search by the examiner. However, the examiner did indicate during the teleconference that the above recited independent claim amendments would overcome the cited prior art reference used to reject the independent claims under 35 U.S.C. 102. Therefore, it is applicants' representative's understanding that barring additional materially relevant prior art being found in an updated search by the examiner, the currently amended claims are now in condition for allowance.

II. Amendments

Applicants have amended independent claims 1, 7, 13, 18, 23, 29, 35, and 41 to further clarify that the action used is based on a transmission protocol and not merely any protocol and that the action used varies for different transmission protocols. These recited claim limitations do not constitute new matter, as they are supported by applicants' specification. For example, support may be found in the specification on page 13, lines 6-17 and page 14, lines 23-31, which reads as follows, respectively:

In this manner, the mechanism of the present invention invokes congestion control before the network becomes congested and before packets are dropped. Thus, maximum throughput is achieved without dropped packets and with less variability, such as less burstiness. In these examples, for TCP the congestion control is only involved for any connection exceeding its fair share of the desired traffic level. For UDP, either packets exceeding the defined level would be dropped, the sending application could be notified to invoke its own congestion control, or the type of service (TOS) byte in the IP header could be changed.

The action required is represented as A. This action is the action required if the traffic through the network path exceeds L. The action may vary for different protocols. For example, if the protocol is TCP, the congestion window size may be dropped or reduced, or the TOS may be changed. For other protocols, the action may include, informing the sending application to decrease its sending size, dropping the packet, or changing the TOS.

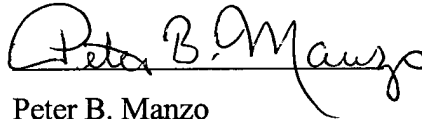
III. Conclusion

It is respectfully urged that the subject application is patentable over the cited prior art references and is now in condition for allowance.

The examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE: October 7, 2005

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Peter B. Manzo", written over a horizontal line.

Peter B. Manzo
Reg. No. 54,700
Yee & Associates, P.C.
P.O. Box 802333
Dallas, TX 75380
(972) 385-8777
Attorney for Applicants